

CHILDREN'S HEALTH AND ENVIRONMENT COMMITTEE

DATE: April 7, 2005

CALLED TO ORDER: 6:14 p.m.

ADJOURNED: 8:58 p.m.

ATTENDANCE

ATTENDING MEMBERS

Angela Mansfield, Chair
Patrice Abduallah
Greg Bowes
Susie Day
Scott Keller
William Oliver
Steve Talley

ABSENT MEMBERS

Jim Bradford

AGENDA

PUBLIC FORUM

Members of the public will be invited to express their views regarding the proposed smokefree air act.

PROPOSAL NO. 45, 2005 - amends the Code by establishing nonsmoking areas
(Several public hearings are anticipated on this proposal before a recommendation is made to the full Council. The proposal was postponed for action until May 5, 2005.)

CHILDREN'S HEALTH AND ENVIRONMENT COMMITTEE

The Children's Health and Environment Committee of the City-County Council met on Thursday, April 7, 2005 at the Perry Township Government Center located at 4925 South Shelby Street. Chair Angela Mansfield called the meeting to order at 6:14 p.m. with the following members present: Patrice Abdullah, Greg Bowes, Susie Day, Scott Keller, William Oliver, and Steve Talley. Jim Bradford was absent. Councillor Mike Speedy was also in attendance.

PUBLIC FORUM

PROPOSAL NO. 45, 2005 - amends the Code by establishing nonsmoking areas *(Several public hearings are anticipated on this proposal before a recommendation is made to the full Council. The proposal was postponed for action until May 5, 2005.)*

Chair Mansfield welcomed everyone to the Perry Township Government Center and thanked Perry Township Deputy Trustee Harold Day and those associated with the Center for allowing them to use the facility. She apologized for the delay in getting started and said that the presenter scheduled to speak this evening is running late. She welcomed Councillor Mike Speedy to this hearing near his district in Perry Township. She said that she will proceed with public testimony until the presenter arrives.

Dr. Douglas Williams, Perry Township Schools superintendent, stated that there are drug free programs in all Perry schools, and grants are provided for educating young people on various health hazards and the dangers of drugs. He said that it is hypocritical to spend so much money and time to educate children and then send them to work in a dangerous atmosphere. He said that he has three grown daughters who have all chosen smokefree cities to live in, and he hopes the Committee is committed to doing the right thing and providing the same clean environment for Marion County's children.

Cliff Medenwald, owner of the Fat Cat Bar, asked the Committee to oppose the proposal. He said that he has spent over \$60,000 to make his establishment a desirable environment, and if this proposal passes, he will have to close his doors. He said that he sells cigarettes and advertises the sale of tobacco and the fact that smoking is permitted in his establishment. He said that he is a non-smoker, but if others do not like smoke, they do not have to come to his bar. He said that when the Council starts paying his bills they can tell him how to run his business.

Chair Mansfield stated that Dr. Virginia Caine, director of the Marion County Health Department (MCHD), will offer a brief presentation regarding the impact of secondhand smoke on the citizens of Marion County. Dr. Caine stated that secondhand smoke is a pervasive public health problem in Marion County. According to the Center for Disease Control (CDC), Marion County has the third highest smoking rate in Indiana. She presented a Powerpoint presentation (attached as Exhibit A) and showed that Marion County smoking rates are higher than the overall Indiana rates. She reviewed current tobacco use in Marion County and noted that smoking among pregnant teens is excessive, and can lead to low birth rates or other birth defects. She said that the MCHD's goal is to decrease the smoking prevalence in Marion County to make it a healthier place to live, to prevent youth from beginning the practice of smoking, and to protect non-smokers from secondhand smoke exposure. She listed some health factors attributed to secondhand smoke exposure, such as lung cancer, heart disease, stroke, asthma, sudden infant death syndrome (SIDS), ear infections, and respiratory infections. She relayed specific statistics related to lung cancer deaths in Marion County and mortality rates, as well as asthma prevalence, as compared to Indiana, California, and the entire United States as outlined in Exhibit A. She said that the economic vitality of the nation is limited by poor health, premature death and long-term disability of uninsured workers. Lifestyle choices determine health care costs, and Indiana's aging population and poor health status contribute to hospital costs. She said that surveys show that Indiana ranks 7th in the nation in the prevalence of smoking, 10th in sedentary lifestyle, 4th in obesity, 4th in cancer deaths, and 11th in heart disease. She relayed the coronary heart disease and stroke death rate statistics and goals as portrayed in Exhibit A. Dr. Caine said that smokefree policies help to protect workers from exposure, change social norms, reduce consumption of tobacco products, and increase cessation attempts. She said that it is time to make Indianapolis a healthy community if they can, and this proposal will help to do that.

Councillor Abdullah thanked Dr. Caine for sharing statistics and asked if secondhand smoke is an epidemic health concern for Marion County. Dr. Caine said that there is not doubt that it is. Councillor Abdullah asked if there is any estimate of how many people will be impacted positively by passage of this proposal. Dr. Caine said that in Helena, Montana, the smokefree ordinance reduced the rate of heart attacks by 44%, and she could estimate forecast trends, but cannot give an accurate number for Marion County specifically.

Chair Mansfield asked if the MCHD has tracked information to focus on smokefree workplaces. Dr. Caine said that occupational agencies have tracked that type of information, and Marion County has the second worst protection for workers against secondhand smoke in Indiana. Chair Mansfield thanked Dr. Caine for her presentation.

Dennis Barr, citizen of Boone County, said that he is a smoker and likes to have a cigarette when he goes to a bar to drink. He said that he is over 21 years old and can read. He asked if the Council is going to outlaw sugar next. He said that according to the dining choices website, there are 137 restaurants catering to non-smokers and only

23 smoking establishments, and therefore non-smokers already have more opportunities than smokers. He said that he lives in Boone County and will not visit Marion County for his dining choices if this proposal passes.

Jose Morado, owner of the Shelby Street Saloon, stated that most of his customers smoke and if this proposal passes, it will close him down. He said that the City will lose revenue if all of these places close down, and will therefore have to raise taxes.

Doug Stephens, attorney representing the owner of Peppy Grill in the Fountain Square area, said that the Peppy Grill is a gathering place for neighbors and has a loyal clientele. He said that 80% of their customers and all of their employees smoke. He said that it should be a personal choice, and the Council should let the market decide when restaurants should go smokefree.

Norm Slade, citizen, stated that he does not go to non-smoking bars or restaurants, and will simply stay home and not spend his money in any establishment if this proposal passes.

Bill Bowes, Smoke Free Indy, stated that the market cannot always be counted on to protect the best interest and safety of citizens, such as in the case with Firestone tires and government regulations. He said that just because a product is popular and legal, the use of it should not cause danger to another citizen's health.

Leigh Hinkle, citizen, stated that she is a cancer survivor and endured 12 rounds of chemotherapy and 20 radiation treatments. She said that her lungs are permanently damaged and there are many places she would like to frequent, but cannot because of the trouble the smoke causes for her breathing. She said that even those places that have separate non-smoking sections affect her drastically, and there really is no protection. She said that she works for the American Cancer Society and is proud of what she does and the difference education can make.

Aida McGammon, chief executive officer of the Indiana Latino Institute, said that the latino community is highly affected by secondhand smoke. She said that many latinos work in restaurants or places where they are not protected, and are too afraid of losing their jobs to speak out. She said that she has a petition of over 2,000 latino residents and 98 hispanic-owned businesses that support Proposal No. 45, 2005 in Marion County.

Wiley McGammon, citizen, said that he is a victim of secondhand smoke, as he was diagnosed with throat cancer, even though he had never smoked. He said that he endured 40 radiation treatments and his taste buds no longer work properly. He said that cancer is hell, and this proposal is right to protect everyone from having to endure what he has.

Roger Riddle, owner of the Wreck Bar, said that this proposal will put him out of business. He said that 90% of his customers smoke, and if a person does not smoke, they do not have to visit his bar. He said that there are many things that kill, including obesity, but there are no laws against them.

Ed Massey, operator of games and music equipment in Marion County, said that he is opposed to Proposal No. 45, 2005. He said that most of these establishments are over-21 establishments, and it is legal to buy cigarettes. He said that they pay taxes on this legal product that helps subsidize so many projects in the County. He said that some places in Columbus, Ohio have seen almost a 30% drop in revenue. He said that there is warning information on every pack of cigarettes, and the smoker has the right to smoke or not to smoke. He said that instead of passing this ordinance, the Council should simply require bars and restaurants to identify themselves as smoking or non-smoking establishments.

Chair Mansfield stated that Councillor Keller has a prior engagement and must leave. [Clerk's Note: Councillor Keller left at 7:25 p.m.]

Dr. Richard Feldman, St. Francis Hospital, stated that secondhand smoke causes acute life-threatening diseases and someone else does not have the right to make a choice that hurts another.

Joan Hogan, Hogan's Pub, stated that her customers oppose the proposal and are mostly elderly citizens who should be left alone. She said that smokers pay a tax on cigarettes, and business owners buy licenses to sell tobacco. She said that the exemption of cigar and martini bars shows that those establishments that have more money receive more consideration.

Julian Peebles, Ruth Lilly Health Education Center, said that their board of directors unanimously voted to support Proposal No. 45, 2005. He said that now is the time to act on limiting this insidious effect on citizens' health.

Ben Ciaccio, owner of Just Darts amusement vending company, stated that they have 450 pieces of equipment in 60 bars, and losing 35% of their revenue would be devastating to his business.

Rhoda Walker, owner of three bars, stated that if this passes, she will be out of business. She said that this Committee wants to protect children, but no one under 21 can enter her establishment.

Greg Dixon, Libertarian Party, stated that they have been told this is a health issue and will not affect economics, but those are not the real issues. He said that he does not need government protecting his children, as that is his responsibility as a parent. He said that maybe there needs to instead be a ban on bad parenting. He said that comparing the role of this Council with a decision made by dictator Fidel Castro of Cuba

does not speak well. He said that the Council is trying to push the desires of the majority on the minority. He asked the Committee to obey the constitution and get out of the way and let people decide for themselves. This is the only way to really build a first-class city.

Max Gehrich, Carson Pub II, said that that they are a very competitive coin-operated dart bar, and 75% of their customers smoke, with 88% of darters saying this proposal's passage will affect their attendance at the bar. He said that his establishment is too close to Johnson County and the passage of the proposal will cause his business to close.

Charles McPherson, owner of Hoosier Pub, stated that he has only been in business a short time, as he was a Sheriff's Department employee for 30 years. He said that they have 100 to 115 regular customers, and 85 to 90% of them smoke. He said that he does not know how passage of this proposal will affect his business, but knows it will suffer. He said that he has invested his life savings into this business and new equipment, and the government should let them run their establishments the way their customers dictate.

Joe Wilson, owner of two bars, said that many neighborhood taverns barely exist as it is, and non-smokers can simply choose not to visit and drive on by. He said that he is willing to place signs that identify his bar as a smoking establishment. He said that the Committee says they are listening, but it seems their minds are already made up.

Rebecca Pardue, owner of Marty's Restaurant and Lounge, said that she has been a non-smoker for two years after 33 years of smoking and is a breast cancer survivor, but that was her choice. She said that she had two children and no low birth rates. She said that the passage of this ordinance would cause her business to close and she asked the Committee to consider that.

Michael Smythe, Indy Amusements, stated that it is not a matter of how much money these people will lose, but about personal responsibility. He said that he is a parent, a taxpayer, and a law-abiding citizen. He said that his children do not smoke and he believes some of the statistics being quoted are exaggerated and not well-documented.

Mark Webb, Marion County Chapter of the Indiana Licensed Beverage Association, stated that children have nothing to do with these tavern and bar operations, and these establishments are already paying an extra one percent tax, and if the government gets their way, will end up paying two percent. He said it should be the owners' choice.

Deborah McLaughlin, owner of the Living Room Lounge, stated that her employees choose to work for her and do not feel that they have dangerous jobs. She said that if the city does not need her taxes and can find jobs for her and her employees, then she has no problem with the ordinance. She said that all her workers and patrons are over

21 and sometimes need to have a cigarette and drink before going home, so that they do not smoke in front of their children.

Laura Rooder, citizen of Martinsville, said that she is a non-smoker who works in Marion County and waits tables at the Living Room Lounge and it is her choice to work there. She said that many patrons come to their establishment to smoke during lunch or after work, because they are not allowed to smoke at their workplace. She said that she has never heard of anyone dying of secondhand smoke.

Charlie Brehob, Sport Bowl, stated that he would personally prefer not to work in a smoking environment, but unless this smokefree act is state-wide, he is afraid of its economic impact on his bowling alley. He said that they try to accommodate all bowlers and have even offered smoke-out days, but only about 37% of their patrons want a smoke-free environment. He said that league bowlers spend three hours bowling, and most of them will go where smoking is allowed. He said that smokefree policies do affect people's decisions to bowl. Eight to 15% quit smoking, 26% look for a smoking center, and 15% would travel 30 miles to another county that allows smoking. He said that he employs 32 full and part-time employees and believes they would lose 30% of their customers to Johnson County, which is only eight miles away. He said that passage of this proposal would deny Sport Bowl a level playing field. He said that he could support the proposal if it was state-wide, but county-wide, it puts him at a competitive disadvantage.

Kelly Alley, citizen, said that she knows secondhand smoke causes disease and death, and she would love to go to restaurants, bars and comedy clubs, but cannot because of the smoke. She said that workers have rights and no worker is less important than any other that some should be protected and some should not.

Steve Baker, Colonial Inn, said that this is the government getting into his pockets and he will lose business. He said that everyone that comes into his bar is 21 years old and this proposal will cause his business to suffer.

Becky Thacker, citizen, said that she is simply an ordinary person who will be very happy if the Council passes this ordinance.

Rick Coop, citizen, said that there is no difference in the air pollution between smoking and non-smoking sections in a restaurant. He said that he is not saying people should not smoke, just that they should not do it in a public place where he would like to eat and be entertained. He said if smoking is banned in all bars and restaurants, some business might decline at first, but not for long, as people will have nowhere else to go that permits smoking.

Sarah Childers, tobacco control coordinator at Health Net, Inc., said that the medical costs associated with smoking and secondhand smoke are reason enough to pass this proposal.

Paul Shellabarger, 20-year restaurant owner, said that the Committee should be as willing to protect business owners as they are non-smokers. He said that there needs to be a balance, and while he understands that smoking has risks, the effect this proposal will have on small businesses needs to be taken into consideration.

Harriet Clare, citizen, said that she is a non-smoker who believes that people should have the freedom to make their own choices, but not when it comes to killing people. She said that murder is not legal, and secondhand smoke kills.

Donna Brubeck, representing the owner of The Green Door, stated that she agrees public buildings should be smokefree, but small business owners should be allowed to make the decision whether or not to go smokefree on their own, based on the wishes of their customers.

Don Musselman, III, owner of Longacre Bar and Grill, stated that smokefree bars is not an issue to be handled locally. Instead, effort should be made to make the sale of tobacco illegal on a national level, if it is such a devastating health risk.

Dick Huber, retired physician, stated that the only reason for the government to exist is to protect the health and safety of its citizens. He said that the Committee should not let their emotions and dollar signs get in the way. He said that everyone should stop talking about freedom and start talking about what is right. He said that smokefree is coming, and Marion County can be the last one on the train or can be a leader in protecting the health of its citizens.

Kenny Bland, managing partner of Cheeseburger in Paradise, stated that his restaurant is three miles from the county line, and 60% of their sales come from late night customers, of which 60% of those smoke. He said that many of his employees are non-smokers and they choose to work in the smoking sections because they make good tips there. He said that they let their workers choose to work in a smoking or non-smoking section. He said that this proposal would be taking away the American Dream for some.

Paul Messplay, chairman of the public policy committee for Smoke Free Indy, said that he quit smoking 30 years ago and still feels guilty about exposing his employees to secondhand smoke. He said that this proposal is about protecting workers in all industries.

Elissa Kaupisch, citizen, stated that both her parents passed away from cancer, and she has asthma and is allergic to smoke. She said that secondhand smoke leads to cancer, not just in children, but in adults too. She said that she loves her job in a not-for-profit organization, but she cannot enjoy a meal in their cafeteria because of the smokers. She said that people do not just go to bars to smoke, but to drink and socialize, and they will still go if smoking is no longer allowed. She said that this

proposal will insure better health for everyone, and she will be able to go into a restaurant that she currently cannot frequent.

Jeffrey Kent, owner of the Wooden Nickel Bar & Grill, stated that 90% of his customers are smokers and if his customers wanted a smokefree environment, he would go smokefree. He does not need this Committee making that business decision for him.

Dallas Eaton, manager of the Red Garter Gentleman's Club, said that this proposal will also affect guests from out of town, and more than 50% of their customers are from out of state. These visitors help add to the tax and revenue base for Marion County. He said that his entertainment venue helps to support the convention business in Indianapolis, and this ordinance would hurt his business.

Jeremy Grimes, Gary's Lounge, said that bars have reported loss of revenue in smokefree areas and businesses are failing. He said he would be more than happy to put up a sign advertising his bar as a smoking establishment. He asked the Committee to stop ever-intrusive expanding government.

Eric Tax, Club Zeus manager, stated that he moved to Indianapolis because he could not smoke in California and lost his job there because of the smokefree ordinance. He asked where he can go so that his lifestyle and employment are not affected.

Kristin Collins, owner of Bobby Jo's Beef & Brew, stated that her restaurant is an all-adult dining establishment, and the Council should let business owners make their own decisions. She said that she has an outdoor dining area that would not even be permitted to have smoking if this ordinance is passed.

Laura Viaches, citizen, said that she is 26 years old but cannot go to bars with her friends because of the smoke. She said that wait time for non-smoking sections is sometimes a 60-minute wait, while smokers can be seated immediately in most restaurants, proving that there are more non-smokers than smokers. She said that Ireland passed this same ordinance country-wide and the pubs are still packed and business has actually increased in some places. She asked business owners to keep an open mind about the economic impact.

Rex Burcham, Kelly's Pub II, said that if this proposal was passed nationally, it would not affect his business, but he is four miles from the county line, where smoking is still allowed.

Tim Filler, Smoke Free Indy, said that the prediction of economic failure is based on perceptions and not on facts or data. He said that he has reviewed many documents that indicate smokefree ordinances did not hurt businesses and he provided Committee members with some of these documents.

Jack Rossman, Air Cleaning Specialists, stated that the data says there is no safe level of air cleaning, but this is a fallacy. He said that the problem is that there are codes in place that are not being followed and enforced. He said that he believes a common ground can be found.

Nick Baker, American Cancer Society, stated that there is false information being given, and there are no studies that have been done by the American Cancer Society that would indicate that secondhand smoke is not a health hazard. He said that secondhand smoke does indeed lead to disease and death and this is a peer-reviewed documented fact.

Travis Cross, Libertarian Party, stated that the real issue is property rights. He said that the free market should dictate these types of business decisions. He added that the risk seems lopsided and asked if the loss of liberty is worth the risk.

Melissa Lewis, citizen, said that smokers can still enter these smokefree venues, but simply will have to be courteous and step outside to smoke, so as not to endanger the health of others. She said that no one would have ever imagined that smoking would be outlawed on planes or movie theaters, either, but that has not hurt these businesses. She said that business owners are not thinking of the possible clientele they could gain by going smokefree. She added that secondhand smoke kills.

Kyresa Westbrook, Smoke Free Indy, said that smokers can still smoke, but simply must go outside to do so. She said that most of the opposition is based on fear, and New York and California had the same fears, but have found that they could save money on filters, experience less loss of workers due to illness, save lives, and protect profits.

Kathy Nichols, citizen, said that she has been to too many funerals of people who died from secondhand smoke. People were not in favor of the seatbelt law that passed at first, but it has saved lives, and therefore was worth it.

Demetrius Georgiopolus, citizen, stated that he came to this country for more freedom, but this proposal is taking away the freedom he seeks. He said that if the Committee is concerned about air pollution, they should address other smoke-causing issues, such as factories and truck exhaust.

Billy McKinney, citizen, stated that he personally called every Councillor and most did not return his call. He said that he does not believe in local and state government running his life. In order to stay the greatest country, freedoms should remain.

Chair Mansfield said that she was one who did return Mr. McKinney's call, and she thanked all citizens for coming out this evening to express their views. She said that there will be one more public forum on April 14, 2005 at the Shortridge Middle School, and she encouraged citizens to continue to let their views be heard.

There being no further business, and upon motion duly made, the meeting was adjourned at 8:58 p.m.

Respectfully Submitted,

Angela Mansfield, Chair

AM/ag